or the plan administrator; the office of the primary recordkeeper serving the plan; or the office of an attorney, enrolled actuary, certified public accountant or other advisor retained by the plan or the employer at the time of the Terrorist Attack to determine the funding requirements described in section III.B above for the period described in such section. A plan will also be considered to be directly affected by the Terrorist Attack if the enrolled actuary for the plan was killed or injured or is missing as a result of the Terrorist Attack.

D. The following rule applies under Title IV of ERISA for purposes of determining a plan's unfunded vested benefits for a premium payment year or entitlement to the full funding limit exemption from the variable-rate premium for a premium payment year. For any plan for which this notice extends a date described in § 412(c)(10) of the Code and § 302 (c)(10) of ERISA, contributions for any plan year before the premium payment year may be taken into account if they are made on or before the earlier of (1) the extended § 412(c)(10)/§ 302(c)(10) date under this notice or (2) the date of the plan's variable-rate premium filing (or, if applicable, amended variable-rate premium filing) for the premium payment year.

DRAFTING INFORMATION

The principal authors of this notice are James E. Holland, Jr. and Roger Kuehnle of the Employee Plans, Tax Exempt and Government Entities Division. For further information regarding this notice, please contact the Employee Plans' taxpayer assistance telephone service at 1–877–829–5500, between the hours of 8:00 a.m. and 6:30 p.m. Eastern Time, Monday through Friday (a toll-free number). Mr. Holland may be reached at (202) 283–9699 (not a toll-free number).

Qualified 501(c)(3) Bonds

Notice 2002–10

PURPOSE

This notice clarifies the application of §§ 145(a)(2) and 514 of the Internal Revenue Code to the investment of gross proceeds of qualified 501(c)(3) bonds described in § 145.

BACKGROUND

Section 103(a) provides that, with certain exceptions, gross income does not include interest on any state or local bond. One type of bond that is eligible for the exclusion under § 103(a) is a qualified 501(c)(3) bond described in § 145 that satisfies certain requirements, including the requirements contained in § 148.

In general, a qualified 501(c)(3) bond is a bond at least 95 percent of the net proceeds of which are to be used by no person other than an organization described in § 501(c)(3) (a "501(c)(3) organization") or a governmental unit. However, under § 145(a)(2), a bond is not a qualified 501(c)(3) bond if more than 5 percent of the net proceeds of the issue of which it is a part are to be used by a 501(c)(3) organization in an unrelated trade or business under § 513(a).

With certain exceptions, § 148 and the regulations thereunder prohibit the use of gross proceeds of an issue of qualified 501(c)(3) bonds to acquire investment property (as defined in § 148(b)) that produces a yield that materially exceeds the yield on the issue. Section 1.148–1(b) of the Income Tax Regulations defines "gross proceeds" to include, among other things, amounts received from the sale of the issue, amounts received from investing proceeds of the issue, and certain other amounts with a nexus to the issue.

Section 501(a) exempts 501(c)(3) organizations from federal income taxation. However, notwithstanding this general exemption, § 511(a) imposes a tax on the unrelated business taxable income, as defined in § 512, of 501(c)(3) organizations, including certain income from debt-financed property, as defined in § 514.

DISCUSSION

Questions have arisen regarding the application of §§ 145(a)(2) and 514 to the investment of gross proceeds of qualified 501(c)(3) bonds in a manner that complies with the requirements of § 148. This notice clarifies that the use of gross proceeds of an issue of qualified 501(c)(3) bonds to acquire investments (as defined in § 1.148–1) in a manner that complies with § 148 does not constitute an unrelated trade or business for purposes of § 145(a)(2) and does not result in income from debt-financed property under § 514. This notice does not affect the determination of whether the use of property financed with expenditures of proceeds of bonds constitutes an unrelated trade or business for purposes of § 145(a)(2) or results in unrelated business taxable income under § 512.

DRAFTING INFORMATION

The principal authors of this notice are Charles P. Barrett of the Tax Exempt and Government Entities Division, Exempt Organizations, and Sunita Lough of the Tax Exempt and Government Entities Division, Tax Exempt Bonds. For further information regarding this notice, please contact Mr. Barrett at (202) 283–8944 (not a toll-free number) or Ms. Lough at (202) 283–9774 (not a toll-free call).

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26 CFR 601.201: Rulings and determination letters. (Also Part I, §§ 7701; 301.7701–1; 301.7701–2, 301.7701–3, 301.9100–1, 301.9100–3.)

Rev. Proc. 2002–15

SECTION 1. PURPOSE

This revenue procedure provides guidance under § 7701 of the Internal Revenue Code for a newly formed entity that requests relief for a late initial classification election filed within 6 months of the due date of the initial election.

SECTION 2. BACKGROUND

.01 Section 7701 provides definitions for business entities and their owners for federal tax purposes.

.02 Section 301.7701–1(a) of the Procedure and Administration Regulations provides general rules for the classification of various organizations for federal tax purposes. Whether an organization is an entity separate from its owners for federal tax purposes is a matter of federal tax law and does not depend on whether the organization is recognized as an entity under local law. Section 301.7701–1(b) provides that the classification of organizations that are recognized as separate